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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,330	09/25/2001	H. W. Holland-Letz	213150	1181

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EXAMINER

WILLIAMS, MARK A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/963,330

**Applicant(s)**

HOLLAND-LETZ, H. W.

**Examiner**

Mark A. Williams

**Art Unit**

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 12/6/01.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 120-152 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 120-152 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 120-152 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 120, the phrase “maxima that are substantially perpendicular to each other relative to a Cartesian coordinate system oriented perpendicular to the longitudinal axis” is unclear and not fully understood, in that a Cartesian coordinate system <sup>may</sup> ~~my~~ have 2 or 3 dimensions, and the applicant has not made this distinction. It is also unclear how such maxima can be measured to be perpendicular. How can a maxima be perpendicular to another maxima?

SDB  
7/7/05

In claim 120, “between 45% and 55% of the average hand width of said assigned group of hands” is indefinite, in that the <sup>metes</sup> ~~meets~~ and bounds of the claim cannot be determined. The average width of an assigned group of user’s hands cannot be determined. This is true also throughout the claims.

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***Claim Rejections - 35 USC § 103***

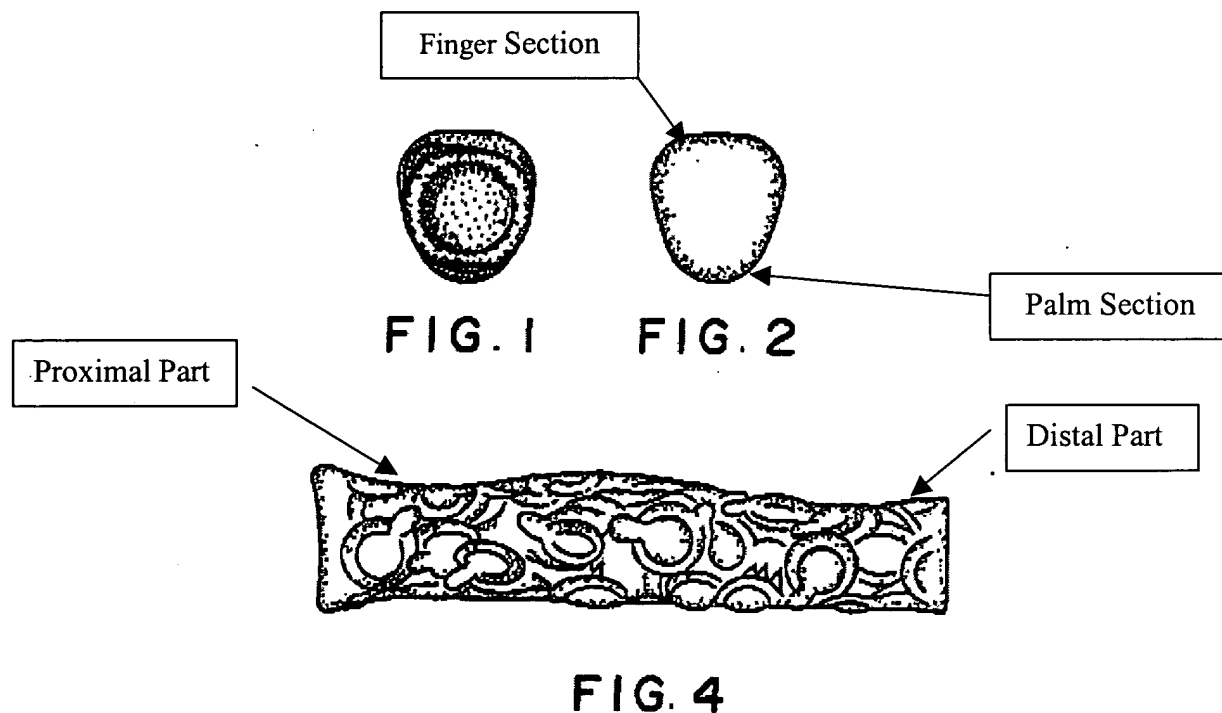
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 120-152, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ming-Chang, US Patent Des. 351,330, in view of Marui, US Patent 4,964,192. See the below image. (Note that no patentable weight is given to the intended use functional language referring to how the handle is intended to engage a user's hand.) Ming-Chang shows a handle configured for an assigned group of hands, the handle comprising a body having a proximal end, a distal end, and a longitudinal axis extending between the ends; the body having a finger section (note that engagement with the fingers and palm sections of a user's hand has to do with how one elects to orient the handle, and is considered intended use). The finger section extending along the longitudinal axis; and a palm section. The palm section extending along the longitudinal axis and substantially opposing the finger section; wherein the palm section includes a distal part adjacent that distal end, a proximal part adjacent the proximal end, and a center part that lies between the distal part and the proximal part, wherein the center part has a convex

portion having a three-dimensional curvature that extends over at least a portion of its circumference.

As understood, Ming-Chang discloses the claimed invention except explicit teaching of the center part being asymmetrical relative to a plane including the longitudinal axis and the maximum point of the palm section. Marui teaches this concept for the purpose of providing increased cushioning while retaining a moderate size circumference of the handle. It would have been obvious at the time the invention was made for one skilled in the art to have included in the design of Ming-Chang such a modification, as taught in Marui, for the purpose of providing increased cushioning while retaining a moderate size circumference of the handle.



***Response to Arguments***

3. Applicant's arguments filed 12/6/04 have been fully considered but they are not persuasive.

Applicant argues that "average hand width of an assigned group of hands" is sufficiently clear, when viewed in light of the specifications. The examiner does not agree with this statement, since the claims are required to stand alone, and a user's hand is not part of the invention. Further, practically any number of average hand widths of an assigned group of hands can exist, so it is difficult to determine exactly what is being claimed.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams

3/4/05



Suzanne Dino Barrett  
Primary Examiner